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Ed Henry
Director - Finance

March 6, 2006

EX PARTE

FILED VIA ECFS

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
Room TW B-204
445 12th Street, S.W.
Washington, DC 20554

Re: *In the Matter of Petition of Qwest Corporation for Waiver of Depreciation
Regulation Pursuant to 47 C.F.R. § 1.3 – WC Docket No. 05-259¹*

Dear Ms. Dortch:

On October 24, 2005, in the above-captioned proceeding, as a follow-up to an October 20, 2005 meeting of the undersigned, along with Jerome Mueller and Marti Gude, also of Qwest, with Tamara Preiss, Fatina Franklin, Steve Morris, Rick Robinson and Ronald Kaufman of the Wireline Competition Bureau of the FCC, Qwest submitted confidential and redacted versions of an *ex parte*. The confidential version of that *ex parte* attached a spreadsheet that was entitled "Pole Rate Analysis and State Comparison Worksheet" (the non-confidential version of the *ex parte* had attached to it a redacted version of the spreadsheet, along with a separate non-confidential document). Both the confidential and redacted versions of the *ex parte* and attachments were filed in hard copy with the Office of the Secretary.

On December 1, 2005, Qwest submitted confidential and redacted versions of an *ex parte* and various attachments that responded to questions raised by the FCC staff in connection with the October 24th submission. On December 7, 2005, the undersigned transmitted via e-mail additional information responsive to FCC staff questions and concerning pole attachment rates in Idaho and Colorado. On January 23, 2006, Qwest re-filed the confidential version of the spreadsheet that had been submitted on October 24th. The re-filed version of the confidential spreadsheet included the correct markings on each page of the document – **CONFIDENTIAL–NOT FOR PUBLIC INSPECTION** – to denote its confidential status. Also included with the January 23rd submission was an appended Confidentiality Justification.

On February 9, 2006, Qwest submitted confidential and redacted versions of an *ex parte* that provided additional information relating to the curve shape parameter of the depreciation

¹ See *Public Notice*, 20 FCC Rcd 13836 (rel. Aug. 22, 2005).

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rate element of the pole attachment calculation. This information was provided as a follow-up to a January 30, 2006, meeting of the undersigned and Jerome Mueller (in person), and Betty Knapp and Marti Gude (by phone), all of Qwest, with Rodger Woock, Steve Morris, Fatina Franklin, Stephen Steckler, Rick Robinson, and Ronald Kaufman of the Wireline Competition Bureau to discuss the Qwest Petition for Waiver. Included with the February 9th *ex parte* was a Confidentiality Justification, along with an indication that Qwest was voluntarily submitting the confidential material pursuant to FCC Rules 47 C.F.R. Sections 0.457 and 0.459 and that should the FCC deny its request for confidentiality, then Qwest would like the information returned pursuant to FCC Rule 47 C.F.R. Section 0.459(e).

Today, Qwest is separately transmitting via e-mail to Dick Kwiatkowski of the FCC staff a revised confidential version of an Excel Workbook that includes all of the spreadsheets previously submitted to the FCC in October and December of 2005 and February of 2006. The Excel Workbook being transmitted today will enable Mr. Kwiatkowski to view the supporting formulae and worksheets “behind” the spreadsheets and upon which the relevant calculations are based.

With this letter, Qwest points out that it is voluntarily re-submitting the confidential version of these spreadsheets – in a format in which the FCC staff may view the supporting formulae and worksheets – pursuant to both FCC Rules 47 C.F.R. Sections 0.457 and 0.459. The confidential data is competitively sensitive information and FCC staff should treat it as such. The Confidentiality Justification provided for the spreadsheet submitted by Qwest on January 23rd remains relevant for the Excel Workbook being transmitted today to Mr. Kwiatkowski, but it has been modified to accommodate the additional confidential information being provided today to the FCC staff at their request. The modified Confidentiality Justification is appended to this *ex parte*.

Pursuant to FCC Rule 47 C.F.R. § 1.49(f), this *ex parte* presentation is being filed electronically, via ECFS. Please include it in the record of the above-captioned proceeding. As indicated above, the confidential Excel Workbook, along with a copy of this *ex parte* and the Confidentiality Justification, are being transmitted via e-mail to Mr. Dick Kwiatkowski. Other FCC staff, as indicated below, are being served with a copy of the *ex parte* and Confidentiality Justification.

Please contact the undersigned with any questions.

Sincerely,

/s/ Ed Henry

cc: Dick Kwiatkowski (*ex parte*, appendix and Excel Workbook)
(Richard.Kwiatkowski@fcc.gov)
Tamara Preiss (*ex parte* and appendix only) (Tamara.Preiss@fcc.gov)

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Fatina Franklin (*ex parte* and appendix only) (Fatina.Franklin@fcc.gov)
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Rodger Woock (*ex parte* and appendix only) (Rodger.Woock@fcc.gov)
Stephen Steckler (*ex parte* and appendix only) (Stephen.Steckler@fcc.gov)

Appendix

Confidentiality Justification

Qwest requests confidential treatment of the financial information being provided, which also includes rate element data (in an Excel spreadsheet electronic format that includes the supporting formulae and worksheets “behind” the spreadsheet and upon which the relevant calculations are based) because it is confidential and proprietary financial information. That information should be afforded confidential treatment under either (or both) 47 C.F.R. § 0.457 and § 0.459.

47 C.F.R. § 0.457

The financial information designated as confidential is confidential and proprietary to Qwest as “trade secrets and commercial or financial information” under Section 0.457(d). Disclosure of such information to the public would risk revealing company-sensitive proprietary information and would have a substantial negative competitive impact on Qwest.

47 C.F.R. § 0.459

The financial information designated as confidential is also subject to protection under 47 C.F.R. § 0.459, as demonstrated below.

Information for which confidential treatment is sought

Qwest requests that the materials being separately transmitted (from the *ex parte* and this Confidentiality Justification submitted through ECFS) via e-mail directly to the FCC staff person who requested them and designated as “**CONFIDENTIAL – NOT FOR PUBLIC INSPECTION**” be treated on a confidential basis under Exemption 4 of the Freedom of Information Act. Each page of these materials contains confidential and proprietary financial information.

Commission proceeding in which the information was submitted

The information is being submitted in WC Docket No. 05-259, *In the Matter of Petition of Qwest Corporation for Waiver of Depreciation Regulation Pursuant to 47 C.F.R. § 1.3*.

Degree to which the information in question is commercial or financial, or contains a trade secret or is privileged

As noted above, the financial information designated as confidential is detailed confidential commercial financial data and accounting information. Public disclosure of this information would be harmful to Qwest as it is competitively sensitive.

Degree to which the information concerns a service that is subject to competition; and manner in which disclosure of the information could result in substantial competitive harm

This financial information relates to services that are subject to competition, is not made publicly available by Qwest and generally would not be subject to routine public inspection under the Commission's rules (47 C.F.R. § 0.457(d)), demonstrating that the Commission already anticipates that release of this kind of information likely could produce competitive harm.

Measures taken by Qwest to prevent unauthorized disclosure; and availability of the information to the public and extent of any previous disclosure of the information to third parties

Qwest treats this financial information as confidential and has protected it from disclosure to parties outside the company.

Justification of the period during which Qwest asserts that the material should not be available for public disclosure

Qwest cannot determine at this time any date on which this information should not be considered confidential or would become stale for purposes of the current inquiry, except that the information would be handled in conformity with general Qwest records retention policies, absent any continuing legal hold on the data.

Other information that Qwest believes may be useful in assessing whether its request for confidentiality should be granted

Under applicable Commission and court rulings, the information in question should be withheld from public disclosure. Exemption 4 of the Freedom of Information Act shields information that is (1) commercial or financial in nature; (2) obtained from a person outside government; and (3) privileged or confidential. The financial information designated as confidential satisfies this test.